

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CELLCO)	
PARTNERSHIP D/B/A VERIZON WIRELESS AND)	
HORVATH TOWERS VI, LLC FOR ISSUANCE CASE)	
NO. 2024-00132 OF A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT A)	2024-00132
WIRELESS COMMUNICATIONS FACILITY IN)	
THE COMMONWEALTH OF KENTUCKY IN THE)	
COUNTY OF FLEMING)	

ORDER

On May 29, 2024, Cellco Partnership d/b/a Verizon Wireless and Horvath Towers VI, LLC (Verizon Wireless), tendered its application for a certificate of public convenience and necessity (CPCN) to construct a wireless communications facility without a geotechnical report per 807 KAR 5:063 Section 1(1)(d) or the tower and foundation design per 807 KAR 5:063 Section 1(1)(j). Verizon Wireless stated it was unable to perform the required reports due to a potential federal endangered plant species on the property. In order to determine if the site is home to the plant species, the U.S. Fish and Wildlife Service recommended that Verizon Wireless conduct a survey during flowering season, which takes place August through October.¹

The Commission issued a deficiency letter on May 31, 2024. On June 3, 2024, Verizon Wireless responded to the deficiency letter indicating the request for conditional approval. Additionally, Verizon Wireless stated that it would provide a geotechnical report

¹ See Verizon Wireless's Application for Construction of Wireless Communications Facility (tendered May 29, 2024) at 4.

and foundation design after completing the flower study. On June 10, 2024, the Commission issued a second deficiency letter. Verizon Wireless then filed a motion for leave to deviate from the filing requirements and reiterated the request was for conditional approval of the CPCN.²

Commission regulation 807 KAR 5:063, Section 1, sets forth the filing requirements and procedures for proposals to construct antenna towers. Despite the requirements, Verizon Wireless failed to include in its application:

1. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs, foundation design recommendations, and a finding as to the proximity of the proposed site to flood hazard areas, except that the utility may file findings prepared by a land surveyor as to the proximity of the proposed site to flood hazard areas,³ and

2. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed and sealed by a professional engineer registered in Kentucky.⁴

There is no language that allows the Commission to grant deviations within 807 KAR 5:063. Even if the Commission had the authority to generally permit deviations under 807 KAR 5:001, good cause has not been shown in this case, because nothing would prevent Verizon Wireless from simply requesting a CPCN when it completes the survey required by U.S. Fish and Wildlife Service and completes

² Motion for Leave to Deviate from Filing Requirements (filed June 18, 2024).

³ See 807 KAR 5:063, Section 1(1)(d).

⁴ See 807 KAR 5:063, Section 1(1)(j).

the necessary geotechnical investigation report and tower and foundation plans. Conversely, if Verizon Wireless's motion were granted, the Commission would have to determine whether to grant the CPCN without having all information, including the full plans for the proposed tower. Thus, having reviewed Verizon Wireless's motion for leave to deviate from the filing requirements and being otherwise sufficiently advised, the Commission finds that Verizon Wireless's motion should be denied.

IT IS THEREFORE ORDERED that:

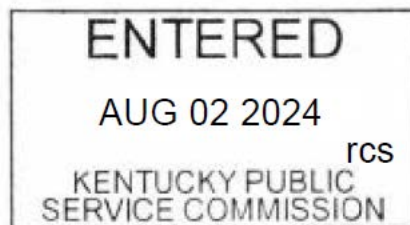
1. Verizon Wireless's motion for leave to deviate from the filing requirements is denied.
2. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.
3. This application will not be deemed filed until all deficiencies have been cured.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner



ATTEST:

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